IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY
WRIT PETITION NO : 16056 of 1994

Between:

Vijayakumar Agarwal S/o. Govardhanlal Agarwal
33 years, r/o. H.No. 10-2-144, Shivajinagar, Nizamabad.

..... PETITIONER

AND

1 Nizamabad Municipality, reptd. by its Commissioner, Nizamabad.
2 The Special Officer, (Dist. Collector) Nizamabad Municipality, Nizamabad.
3 Executive Engineer, R&B Nizamabad.
4 Hanuman Mandir Committee Shivajinagar, Nizamabad reptd by Mr. Limbadri.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more in the nature of mandamus declaring the action of the respondents 1 to 3 in allowing the respondent No.4 to proceed with the construction over the highway road leading to Varney at Azam Road Junction (Nyalkar Chowrastha) abutting the petitioner's Plot no. 10-3-292 at Shivajinagar as illegal and void and consequentially to direct the respondents 1 to 3 to take all steps to remove the encroachment on the highway road and also to declare that the respondents have no right or authority to allot any part of the highway road to the respondent no.4 committee and to pass such other order or orders as this High Court may deem fit and proper in the circumstances of the case:

For the Petitioner:MR.M.R.K.CHOWDARY - Advocate

For the Respondent No.3: GP FOR MUNCIPAL ADMN. & URBAN DEVELOPMENT.

For Respondent No.4 : None appeared

The Court made the following Order:

The petitioner herein invokes the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to issue a writ of Mandamus declaring the action of respondents 1 to 3 in refusing to take appropriate action against the 4th respondent and prevent it from proceeding with the construction of a temple over the highway road leading to Varney at Azam Road Junction as illegal and void.

This Court while directing the Rule Nisi on 7.9.1994 also directed the respondents 1 to 3 to take appropriate action to prevent the 4th respondent from proceeding with the construction of the temple on the high way road in the name of Hanuman Mandir at Azam road junction. The interim order granted by this Court on 7.9.1994 is subsisting. No counter affidavit has been filed by the respondents opposing or contradicting the averments made in the affidavit filed in support of the writ petition. The 4th respondent can never be permitted to make any construction on a public road and respondents 1 to 3 are duty bound and under statutory obligation to take appropriate steps and prevent the 4th respondent from making any such construction.

Having regard to the interim order passed by this Court, no further directions as such are required to be issued and as and when the 4th respondent makes any further attempts, appropriate action shall have to be initiated by the respondents 1 to 3 against the 4th respondent. There shall be an order accordingly.

The writ petition is accordingly disposed of. There shall be no order as to costs.

Dt:17.06.2004
bsv

To
1 The Commissioner, Nizamabad Municipality, Nizamabad.
2 The Special Officer, (Dist. Collector) Nizamabad Municipality, Nizamabad.
3 Executive Engineer, R&B Nizamabad.
4. The Hanuman Mandir Committee, Shivajinagar, Nizamabad
5. 2 CCs to Government Pleader for Municipal Admn., & Urban Development
6. 2CD copies